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OFFICE OF PETITIONS

In re Application of :
Bruce Roble et al :
Application No. 10/015,365 : DECISION ON PETITION
Filed: December 13, 2001 :
Attorney Docket No. SIM0504 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 23, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely reply within the meaning of 37 CFR 1.113 to the final Office action, mailed May 4, 2006, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on August 5, 2006. A Notice of Abandonment was mailed on November 22, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a continuing application under 37 CFR 1.53(b); (2) the petition fee of \$1,500; and (3) a proper statement of unintentional delay.

In view of the statement that the reply is the filing of a continuation application, this statement is being construed as a request to expressly abandon this application in favor of the continuation application upon the granting of the petition to revive and a filing date to the continuation application. Accordingly, this application is being revived solely for purposes of continuity. As continuity has been established by this decision reviving this application, this application is again abandoned in favor of continuing application No. 11/656,765, filed January 23, 2007.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

Inquiries concerning this decision should be directed to the undersigned at (571) 272-3218.

Frances Hicks
Frances Hicks
Petitions Examiner
Office of Petitions